



Strasbourg, 9 March 2021

CDPC-BU(2021)3

# EUROPEAN COMMITTEE ON CRIME PROBLEMS (CDPC)

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## LIST OF DECISIONS

### Bureau Meeting

**Teleconference, 4-5 March 2021**

Opening at 10:00 am, Thursday

Closing around 12:30 pm, Friday

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The Bureau, meeting remotely via videoconference, on 4-5 March 2021, under the Chairmanship of Mr Jesper Hjortenberg (Denmark), took the following decisions:

**1. Opening of the meeting by Mr Jan Kleijssen, Director, Information Society and Action against Crime Directorate**

- to take note of the introductory remarks by Mr Kleijssen who:
  - informed the meeting that as from 2022 the Council of Europe will work on the basis of a quadrennial Programme (2022-2025) and 2 biennial budgets (2022-2023, 2024-2025) so as to ensure improved visibility, stability and certainty of its work. This exercise involves defining shorter and longer-term priorities and working methods for all intergovernmental committees and reflecting these in their new terms of reference;
  - welcomed the important activities which have taken place or are planned by the past Greek and the current German Chairmanships of the Committee of Ministers including the videoconference planned under the aegis of the German Chairmanship on 5 May: "Strengthening international cooperation in criminal matters: extradition and mutual legal assistance" with a particular emphasis on cooperation with the European Public Prosecutor's Office (EPPO) ;
  - underlined the importance of the work carried out by the CDPC regarding the protection of the environment and on artificial intelligence (AI) and criminal law and referred to the work conducted in parallel by the CAHAI and its recent feasibility study on a future CoE legal instrument establishing a legal framework on AI which could also be accompanied by a series of sectorial instruments in the different spheres of competence of the Organisation;
  - took note of the proposal made to invite the Chair or the Vice-Chair of CAHAI to the next CDPC plenary meeting for an exchange of information and in order to coordinate the work of the two committees on AI;
  - welcomed the work carried out by the subordinate committees, the PC-OC and the PC-CP, on topical subjects such as the draft Recommendation regarding the assessment, management and reintegration of persons accused or convicted of a sexual offence and the modernisation of the Convention on mutual legal assistance;
  - informed the meeting about the progress made by the T-CY which should finalise the second additional protocol to the Budapest Convention in time for the celebration of the 20th anniversary of the Convention in November this year;

**2. Adoption of the draft agenda**

- to adopt the agenda;

**3. Information by the Secretariat and the Chair and exchange of views with the Bureau members**

- to welcome the new Head of Department, Ms Hanne Juncher, who highlighted the need to enhance the synergies in the work of the different committees and bodies in the criminal justice area, the importance of coordinating the work on environmental crime with the similar work carried out by the European Union and gave information on the Council of Europe video message sent to the 14th World Congress on Crime Prevention and Criminal Justice (Kyoto, 7-12 March 2021);
- to congratulate Kristian Bartholin for his appointment as co-Secretary of the CAHAI and to take note of the information provided by him concerning the work of that Committee, notably that at the end of 2020 the CAHAI submitted a feasibility study on possible work of the CoE on AI to the Committee of Ministers. The CAHAI Secretariat informed the Bureau that it is currently working on possible elements for legally-binding or non-binding international instruments in the area of AI and that the horizontal approach taken by the CAHAI, should however not stop the development of vertical (sectoral) instruments, such as the

one to be elaborated by the CDPC on automated driving vehicles. The CAHAI Secretariat will work closely with the CDPC Secretariat to ensure close coordination between the two Committees, including, as appropriate, invitations for the Chair of the CDPC to attend meetings of the CAHAI, and vice-versa for the Chair of the CAHAI.

- to welcome the information provided by one of its members, Mr Antonio Folgado, regarding the Portuguese Presidency of the EU notably the organisation of an important event to promote ratifications of the MEDICRIME Convention by EU member States;

#### **4. Council for Penological Co-operation (PC-CP)**

- to take note of the oral information provided by Annie Devos, PC-CP Chair, concerning the last PC-CP Working Group meeting (3-4 February 2021), held in a hybrid format with more than 60 participants, and the decisions taken, namely to hold a PC-CP Working Group meeting in a remote format on 10-12 May and to hold the PC-CP plenary meeting in October or November 2021 accompanied by a one-day Conference on this occasion to commemorate the 40th anniversary of the existence of PC-CP;

- to note that the PC-CP WG suggested the following tasks for the period 2022-2025: drafting a White Paper on mental health; drafting a Recommendation on the use of AI by the prison and probation services (these two topics being the priority topics); examining the treatment of women subject to penal sanctions and/or measures; examining the education and vocational training of offenders, including the use of new technologies; contributing to the work to be carried out by the CDCT on drafting of a recommendation on counter narratives in prison as well as on risk assessment of terrorists; revisiting the recommendations related to foreign prisoners and to probation;

##### **a. Draft recommendation regarding the assessment, management and reintegration of persons accused or convicted of a sexual offence**

- to congratulate the PC-CP for the text in which were reflected the written and oral comments made by the national delegations at the PC-CP and the CDPC plenaries last year;
- to include this text for consideration and approval on the agenda of the CDPC next plenary meeting in June 2021;

##### **b. 25th Council of Europe Conference of Directors of Prison and Probation Services (CDPPS) (9-10 November 2020) and 26th Council of Europe Conference of Directors of Prison and Probation Services (CDPPS) (September 2021, Portugal)**

- to congratulate the PC-CP for the excellent organisation of the Conference which helped promote the COVID-19 related statements that it had adopted as well as encouraging an exchange of information and good practices among the very high number of participants;
- to take note that its follow-up will be ensured by discussing the impact of COVID-19 on the mental health of offenders and prison and probation staff at the 26th CDPPS in Portugal as well as its impact on the increased use of new technologies and AI by these services;

##### **c. Request for observer status**

- to include this point on the agenda of the next CDPC plenary meeting so that a decision on the three candidate organisations is taken;
- to instruct the PC-CP Secretariat to produce a discussion paper with a list of criteria for granting observer status in order to facilitate the discussions and the taking of a decision;

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**5. Artificial Intelligence and criminal law**

- to examine, finalise and approve the draft terms of reference of the CDPC Working Group on the elaboration of an instrument on AI and criminal law related to vehicles and automated driving;
- to submit it to the CDPC plenary in June and afterwards to organise the first meeting of the Working Group after the summer break;
- to appoint Jesper Hjortenberg as Chair of this Working Group and invite Professor Sabine Gless to continue her work as the General Rapporteur/scientific expert of the Group;

**6. Committee of Experts on the operation of European conventions on co-operation in criminal matters (PC-OC)**

- to take note of the draft agenda of the next meeting of the PC-OC Mod which will take place on 16-17 March 2021 and to hold an exchange of views with Mr Erik Verbert, the vice-Chair of the PC-OC, on the current activities of the Committee. Among these, in particular, is the development of a new additional protocol to the European Convention on Mutual Assistance in Criminal Matters to provide a solid legal basis for co-operation with the European Public Prosecutor's Office (EPPO), as agreed by the Committee of Ministers. This issue would also be central during the conference to be held during the next plenary meeting of the PC-OC, on 5 May, under the aegis of the German Chairmanship of the CM: "Strengthening international co-operation in criminal matters: extradition and mutual legal assistance". The PC-OC would also continue the discussion of proposals for future developments in mutual legal assistance;
- to invite the PC-OC to consider combining in the future draft protocol elements related to co-operation with the EPPO with further proposals to update and facilitate mutual legal assistance;
- to welcome the practical work undertaken as regards the model request form and guidelines to facilitate extradition procedures, the model form for the exchange of judicial records, the interlinking of operational networks for practitioners as well as the creation of information for prisoners sentenced abroad as a follow up to the recent Recommendation CM Rec(2020)3 on the practical application of the Convention on the Transfer of Sentenced Persons and the Additional Protocol thereto;

**7. Environment and Criminal Law**

- to consider and approve the mandate of the Working Group on protecting the environment through criminal law, entrusted with the task of preparing a feasibility study on this subject and come back to the CDPC in order to decide which concrete follow up (drafting work) should be given to this topical matter;
- to take note of the information provided by Mr Carlo Chiaromonte that so far only 14 States have appointed their representatives to take part in the Working Group (first meeting planned for 20-21 April 2021) and of the request to those who have not yet done so, to appoint national members;
- to hold an exchange of views with the scientific expert, Ms Véronique Jaworski, on key issues that should be discussed by the Working Group at its first meeting;
- to appoint one of the Bureau members, Mr Thomas Grégoire, as Chair of the Working Group;

**8. Victims' rights**

- to take note of the proposals made by Professors Suzan van der Aa and Antony Pemberton (consultants) for an update of the CM Recommendation Rec(2006)8 on assistance to crime victims and thank the consultants for this excellent work;
- to submit the proposals for further discussion to the next plenary meeting of the CDPC and propose the setting up of a Drafting Group which would draft a recommendation dealing with the rights of victims and at the same time taking into account the rights and position of offenders and other persons involved in the criminal law process;

**9. Preparation of the next Terms of Reference**

- to examine the discussion paper containing proposals for elements for the priorities and tasks of the next terms of reference of the CDPC for the quadrennial period (2022-2025), to make some changes and to approve it;
- to instruct the Secretariat to send this document to all CDPC delegations for their approval by written procedure and then submit it to the competent Council of Europe services in order for it to be transmitted to the Committee of Ministers for their final adoption;

**10. Dates and preparation of the next Plenary meeting of the CDPC**

- to hold the next CDPC plenary meeting on 28-30 June 2021 (two and a half days);
- to focus its agenda on the following major items: environment and criminal law, Council for Penological Co-operation (PC-CP) including the under 4 a mentioned draft recommendation; AI and criminal law; Committee of Experts on the operation of European conventions on co-operation in criminal matters (PC-OC), victims' rights;

**11. Any other business**

- to take note of the request made by the delegation of the United Kingdom to consider work, potentially in the form of a declaration, to reaffirm the Council of Europe's commitment to the right to liberty and security and also the right to fair trial;
- to agree to consider this proposal at the next CDPC plenary meeting in June.